

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Pre Patent Application of)

Valery Poulbot et al.)

Group Art Unit: 2855)

Application No.: 10/814,476)

Examiner: ANDRE J. ALLEN)

Filed: March 31, 2004)

Confirmation No.: 7747)

For: METHOD AND DEVICE FOR THE)
CONTINUOUS MEASUREMENT OF)
THE WEAR OF A TIRE)

REQUEST FOR RECONSIDERATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Official Action dated May 3, 2006, reconsideration of the subject application is requested.

Claims 1, 2 and 4 stand rejected under 35 USC §102(e) as anticipated by U.S. Publication No. 2005/0061069 (Robert). However, it is submitted that Robert is not eligible as a reference under 35 USC §102(e). That is, 35 USC §102(e) states:

A person shall be entitled to a patent unless

(e) the invention was described in — (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; or

Robert was published under Section 122(b), but the Robert application was not filed in the U.S. before the invention by Applicant, as evidenced by the fact that the present application was filed in the U.S. before Robert's U.S. filing date.

As regards the fact that the Robert application is based upon a PCT application, section 102(e) requires that in order for Robert to be entitled to its PCT filing date, the PCT application must have been published in the English language. As demonstrated in the penultimate line of the attached copy of the cover page of Robert's PCT application, it was published in the French language. Accordingly, Robert is not entitled to the PCT filing date under Section 102(e).

For those reasons, it is submitted that the rejection based upon section 102(e) is improper and should be withdrawn.

Respectfully submitted,

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Date: November 2, 2006

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